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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re C.U., a Person Coming Under the
Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

H.M.,

Defendant and Appellant.

D061975

(Super. Ct. No. SJ12518C)

APPEAL from orders of the Superior Court of San Diego County, Laura J. Birkmeyer,
Judge. Affirmed.

H.M. appeals orders after a six-month review hearing concerning her son, C.U. She contends the juvenile court erred by finding she was provided reasonable reunification services. We affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

H.M. and her three children, six-year-old C.U. and his older sisters, Karla M. and S.M., came to the United States from Mexico with H.M.'s husband, Samuel M., who was in the process of seeking United States legal residency for the family.

In March 2011, there were allegations that Samuel had sexually abused Karla and S.M. H.M. did not believe the allegations and Samuel denied them. The San Diego County Health and Human Services Agency (the Agency) petitioned on behalf of Karla and S.M. under Welfare and Institutions Code¹ section 300, subdivision (d) and on C.U.'s behalf under section 300, subdivision (j). Only C.U. is the subject of this appeal.

It soon came to light that Samuel had been subjecting C.U. to severe discipline by hitting him with a belt, hitting him on the head with his bare knuckles and placing him in a dark closet for long periods of time. The Agency filed an amended petition on C.U.'s behalf under section 300, subdivision (i), alleging Samuel had subjected him to acts of cruelty. At the jurisdictional and dispositional hearing in July 2011, the court found the allegations under section 300, subdivision (d) concerning Karla and S.M. and under section 300, subdivision (i) concerning C.U. to be true, and dismissed the allegations under section 300, subdivision (j). The court declared the children dependents of the juvenile court, removed them from H.M.'s care and ordered them placed in foster care. This court affirmed the orders. (*In re C.U.* (Mar. 13, 2012, D060536) [nonpub. opn.])

For the six-month review, social worker Liliana Iribe-Moreno reported that H.M. was having regular visitation with C.U., but had told the social worker she was waiting for the

¹ Statutory references are to the Welfare and Institutions Code.

results of her appeal from the jurisdictional and dispositional hearing before deciding whether to begin other services. She said she did not need the services and Samuel was innocent. H.M. disagreed with the way her court-appointed attorney was handling the case, and she expressed frustration that she was expected to pay for her counsel and for services she could not afford. In January 2012, on H.M.'s motion, the court held a *Marsden* hearing² and granted H.M.'s motion to represent herself. Responding to H.M.'s concern about paying for services, it ordered collection of any reimbursable costs was suspended until further order of the court.

At the six-month review hearing in February and March 2012, Iribe-Moreno testified she had provided H.M. with names and contact information for the services in her case plan, but H.M. had not participated in any services except visitation. During her testimony, Iribe-Moreno explained that when H.M. told her that her job might be ending and asked how she could support herself and her children without Samuel's help, Iribe-Moreno said she suggested there were many things she could do, such as getting another job, even begging for money or selling chocolates, and she could even go back to school and learn English or become a CEO of a large company, and that she did not have to rely on Samuel for support.

After considering the evidence and argument by counsel, the court found it would be detrimental to return C.U. to H.M.'s custody, and reasonable services had been offered or provided, but H.M. had not made substantial progress in her services plan. It ordered C.U. would be continued as a dependent child in foster care and ordered six more months of reunification services.

² *People v. Marsden* (1970) 2 Cal.3d 118.

DISCUSSION

H.M. contends the court erred by finding that a social worker who violated her human dignity nonetheless provided reasonable reunification services to her. She claims the Agency did not make sufficient efforts to provide reasonable telephone visitation or provide services that would facilitate C.U.'s return. She argues the social worker did not take into account the circumstances posed by her immigration status and poverty, and the suggestion that she could beg or sell chocolates violated her basic human dignity.

A reviewing court must uphold a juvenile court's findings and orders if they are supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) "[W]e must indulge in all reasonable inferences to support the findings of the juvenile court [citation], and we must also ' . . . view the record in the light most favorable to the orders of the juvenile court.' [Citation.]" (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114.) In determining the sufficiency of reunification services, the role of the appellate court is to decide "whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered." (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) A service plan must take into account the specific needs of the family. (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) The standard is not that the best possible services were provided, but that reasonable services were provided under the circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

Assuming without deciding that H.M. has preserved for review the issue of the adequacy of her services plan, she has not shown the plan was deficient. The case plan addressed the problems that had brought the children into the dependency system. It required

H.M. to participate in sexual abuse therapy for nonprotective parents to help her to protect her children from future sexual abuse. It also included a domestic violence program and parenting education. At the disposition hearing the court amended the case plan by deleting the requirement of a domestic violence program, but added that H.M. was to attend individual therapy to address her failure to protect her children from sexual abuse and cruelty. The components of the case plan were specifically designed to help H.M. protect her children in the future.

At the time the children were first taken into protective custody, Iribe-Moreno met with H.M. and explained how to set up visits with the children and provided her with information about resources in her area. Iribe-Moreno explained H.M. would be provided with 12 months of reunification services for her to show she was able to protect her children and be a safe parent, and she provided further information about voluntary services. H.M., however, refused to believe her daughters' reports that Samuel had sexually abused them, and she did not acknowledge that he had subjected C.U. to cruel treatment. She said she did not need the services and Samuel was innocent.

Iribe-Moreno testified she had provided H.M. with referrals for all of the services in her case plan, parenting classes, individual therapy and sexual abuse therapy for nonprotective parents. All services were offered in Spanish. The social worker said that to her knowledge, H.M. had not contacted any of these services. She said H.M. told her she would not attend any service until she received the results of her appeal from the orders of the jurisdictional/dispositional hearing. H.M. was provided with a reasonable services plan, and the social worker made available referrals in an attempt to help her get started in her services.

Reasonable visitation with C.U. was also provided. After the foster mother refused to continue to supervise telephone calls because of H.M.'s inappropriate comments and actions, Iribe-Moreno offered to supervise telephone calls during H.M.'s lunch break. H.M. refused this suggestion and said she would not stop eating lunch. Iribe-Moreno then offered to speak with her supervisor about working late twice each week to supervise the calls. When the supervisor would not approve the overtime, Iribe-Moreno asked H.M. to compromise and come up with an alternative option. Iribe-Moreno offered to stay 15 to 30 minutes late to supervise the calls, but H.M. said, if she could stay late, she should be able to supervise calls at 7:15 p.m. Iribe-Moreno also suggested having calls on Fridays, when H.M. used to have visits, but H.M. said this would not work for her. Sometimes calls were missed because Iribe-Moreno was not at work because she was ill, once because H.M. was at work, and, occasionally, because the foster mother was not at home. The social worker made significant efforts to facilitate frequent telephone calls. Under the circumstances of this case and in view of the difficulty of scheduling telephone visitation in accordance with H.M.'s schedule, she has not shown she was not provided with reasonable telephone visitation.

H.M. argues the court erred by finding she was provided reasonable reunification services in that the social worker violated her human dignity by suggesting she could support herself by selling chocolates at the trolley station or begging. When H.M. had asked Iribe-Moreno how she could support herself and her children without Samuel's help, Iribe-Moreno suggested there were many things she could do, such as getting another job, even begging for money or selling chocolates, and she could go back to school and learn English or become a CEO of a large company. We agree such comments were disrespectful and counterproductive

to the issues at hand. The court recognized the comment was unacceptable and termed it disgraceful, but noted a social worker is not equipped to give financial advice and instruction and that the question went beyond the social worker's area of expertise. The court also noted that although the comment was inappropriate, H.M. had been provided referrals for services and had the ability to begin her services plan.

H.M. was provided with a case plan that included appropriate services designed to enable her to protect her children. The Agency provided her with adequate referrals for services, made substantial efforts to get her to engage in the services available and informed her it had arranged payment. Despite the social worker's inappropriate comment, substantial evidence supports the court's finding that H.M. was provided with reasonable reunification services.

DISPOSITION

The orders are affirmed.

HUFFMAN, J.

WE CONCUR:

BENKE, Acting P. J.

MCDONALD, J.